
DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric
Administration**

50 CFR Part 642

[Docket No. 50587-5133]

**Coastal Migratory Pelagic Resources
of the Gulf of Mexico and South
Atlantic**

AGENCY: National Marine Fisheries
Service (NMFS), NOAA, Commerce.

ACTION: Notice of preliminary change in
total allowable catch, permit
requirements, and bag limits for the

Atlantic migratory group of king mackerel.

SUMMARY: The Secretary of Commerce issues a notice of preliminary changes in the total allowable catch (TAC), permitting requirements, and bag limits for the Atlantic migratory group of king mackerel in accordance with the framework procedure under Amendment 1 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic. This notice proposes reductions in TAC and allocations for the Atlantic migratory group of king mackerel based on recent catch data and requirements for permits for commercial vessels and bag limits for recreational fishermen. The intended effects are to protect the Atlantic migratory group of king mackerel and still allow a catch by the important recreational and commercial fisheries that are dependent on this resource and to implement a permit requirement for commercial vessels for the purpose of improved management.

DATES: Comments must be received on or before January 23, 1986.

ADDRESSES: Comments should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The king mackerel fishery is regulated under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP) and its final regulations (50 CFR Part 642). An amendment to the FMP (Amendment 1) was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and implemented September 22, 1985 (50 FR 34843, August 28, 1985).

The TAC for the Atlantic migratory group was set high under Amendment 1 to allow for an increase in catch (as TAC for the Gulf migratory group was set low to provide a decrease) so that equilibrium might be established for the entire stock. Subsequently, new catch information for the period 1981-84 became available that indicated recreational catches were much larger than previously experienced. The Atlantic group is no longer underused, but considered fully used. Therefore, and in view of the overfishing occurring in the Gulf group of king mackerel, the Councils determined to adopt a more conservative harvest strategy for the Atlantic group.

Total catches of the Atlantic migratory group of king mackerel would have exceeded the TAC of 11.8 million pounds, set for that group under Amendment 1, in two out of the past six years owing to large recreational catches. Recreational catches would have been in excess of the recreational allocation in the 1980-1981, 1983-1984, and 1984-1985 fishing years (Table 1).

Pursuant to the provisions of § 642.27 Stock assessment procedures, the Councils considered the stock assessment report (August 15, 1985), along with the results of 10 public hearings, comments of the Advisory Panel and Scientific and Statistical Committee, and the social and economic impacts of alternative TAC's strategies. At the completion of these procedures, the Councils determined that the TAC for the Atlantic migratory group should be reduced by 18 percent to stabilize catches, to prevent overfishing and to assist in recovery of the Gulf migratory group with which it mixes seasonally. An 18 percent reduction is necessary to still allow a bag limit of three fish per person per trip. Results from public hearings indicated that a three-fish bag limit was generally acceptable to the public. This also would provide for long-term stability of this resource in recognizing the anticipated shift in effort to the Atlantic migratory group as the result of action recommended for the Gulf group.

An 18 percent reduction means that the TAC will be 9.68 million pounds for the Atlantic migratory group for the 1986-1987 year beginning on April 1, 1986. The allocations established by the prescribed formula (62.9 percent recreational, 37.1 percent commercial) in the FMP would be a commercial allocation of 3.59 million pounds under § 642.21(a) and 6.09 million pounds for recreational fishermen, who are to be regulated under § 642.28 by a bag limit of three fish per person per trip including the captain and the crew of the vessel.

When either the recreational fishery allocation of 6.09 million pounds or the commercial fishery allocation of 3.59 million pounds is reached, or is projected to be reached, that fishery will be closed under the authority of § 642.22.

Commercial boats fishing the Atlantic migratory group are required to obtain a permit annually and may do so providing the owner or operator has derived at least 10 percent of his earned income from commercial fishing in the previous calendar year. Charter boats may obtain a permit to fish the Atlantic migratory group commercially if they meet the earned income requirement

and provided they adhere to bag limits while under charter. A charter vessel with a commercial permit will be considered to be under charter if more than three persons are aboard including the captain and crew. Permits to fish the Atlantic migratory group will be issued by the Regional Director at no cost and will be available 60 days prior to the beginning of the season (April 1). Permits may be issued at other times for newly registered vessels or in cases of demonstrated hardship. Also, permits are non-transferable. The issuance of permits for commercial vessels will assist in determining the distribution of the lowered TAC between commercial and recreational fishermen and will be an aid in evaluating the status of the catch of each user group. The minimum income percentage requirement for a permit for commercial fishermen also will prevent recreational fishermen from obtaining permits and thereby circumventing the bag limitations.

Based on actual landings over the past six fishing years (Table 1), the reduction in TAC is expected to have minimal adverse impacts on the recreational and commercial sectors. Although the proposed TAC (9.68 million pounds) is an 18 percent reduction from the original TAC of 11.8 million pounds, average landings from the user groups, as shown in Table 1, were 9.94 million pounds over the past six years.

Under the proposed TAC, the recreational sector would be allocated 6.09 million pounds. This amount is an 18 percent reduction (1.34 million pounds) in the average landings over the past six fishing years. Recreational fishermen are regulated by the three-fish-per-person-per-trip bag limit. This bag limit reduces the catch by the desired 18 percent. When the recreational sector catches its allocation and the fishery is closed, the recreational anglers have the following (unranked) options: (1) Continue to fish for king mackerel but release the catch; (2) diversify their activity to include other species such as cobia and red snapper; or (3) cease fishing. Permitted charter vessel operators would be able to fish commercially as long as the commercial quota is not reached. The impact on the private, angler-dependent support industries and the charter vessel operators is unknown; however, it would be adverse only if a large number of anglers ceased fishing. At this time, no information exists to make this determination, but it is doubtful that an 18 percent reduction in catch would cause wholesale abandonment by recreational fishermen.

Under the proposed TAC, the commercial sector would be allocated 3.59 million pounds, an 18 percent reduction from the original allocation of 4.38 million pounds. This amount is 43 percent or 1.08 million pounds above the average landings over the past six fishing years. Commercial and permitted charter vessels fishing on the Atlantic migratory group should not be adversely affected by the allocation since the new commercial allocation was reached only once over the past six fishing years. The number of vessels permitted to fish on this migratory group is estimated to be about 900 (415 charter, 463 Florida-based commercial, and 22 snapper/grouper commercial vessels). An unknown number of the 64 permitted king mackerel Louisiana-based commercial vessels may enter this fishery. There is no information to determine which groups of vessels will receive which amount of the allocation. Cost to NMFS for issuing the permits has been estimated to be about \$2,200. Total burden to the fishermen has been estimated to be about 150 hours. Comments on this proposed change of TAC and the permit requirement for the fishery on the Atlantic migratory group of king mackerel will be accepted for 15 days.

TABLE 1.—ATLANTIC MIGRATORY GROUP KING MACKEREL RECREATIONAL AND COMMERCIAL CATCHES

(Thousands of pounds)

Year	Recreational	Commercial	Total
1979-80.....	2,729	1,925	4,654
1980-81.....	11,098	2,787	13,885
1981-82.....	4,968	2,342	7,310
1982-83.....	5,917	3,834	9,751
1983-84.....	10,332	2,386	12,718
1984-85.....	9,561	1,778	11,339
Average.....	7,434	2,509	9,943

¹Exceeded recreational allocation of 7,434,000 pounds.
²Preliminary Source: Peter Eldridge; Trends in Commercial and Recreational Fisheries for King Mackerel in the Southeastern United States. Fishery Analysis Division Contribution No. ML 1-85-16, August 1985. NMFS, Charleston Laboratory.

Other Matters

This action is taken under the authority of 50 CFR 642.27 and is taken in compliance with Executive Order 12291. This action is covered by the supplemental regulatory impact review and supplemental regulatory flexibility analysis which concluded that the authorizing regulations could have a significant economic impact on a substantial number of small entities.

Because sections proposed in this rule contain a collection of information subject to the Paperwork Reduction Act, this collection has been submitted to OMB for approval. Comments should be

directed to the desk Officer for NOAA, Office of Information and Regulatory Affairs, OMB.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 3, 1986.

Joseph W. Angelovia,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 642 is proposed to be amended as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

1. The authority citation for Part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In Part 642, the table of contents is amended by revising the heading for § 642.21 from "Quotas" to "Quotas and allocations".

3. Section 642.2 is amended by revising the definition of "Charter vessel" to read as follows:

§ 642.2 Definitions.

Charter vessel (includes headboats) means a boat or vessel whose captain or operator is licensed by the U.S. Coast Guard to carry paying passengers and whose passengers fish for a fee. Charter vessels with commercial permits to fish Atlantic migratory group king mackerel are under charter when there are more than three (3) persons aboard including captain and crew.

4. Section 642.4 is amended by revising paragraphs (a), (b) introductory text, (b)(7), (d), (f), and (g) and adding a new paragraph (b)(8) to read as follows:

§ 642.4 Permits and fees.

(a) *Applicability.* (1) Owners or operators of fishing vessels which fish for king mackerel under the commercial quotas (§ 642.21) are required to obtain an annual vessel permit.

(2) Owners or operators of charter vessels and headboats that fish for Gulf migratory group king mackerel are excluded from eligibility for a vessel permit unless they will charter only in the Atlantic migratory group area.

(3) Owners or operators of charter vessels may obtain a permit to fish the Atlantic migratory group provided they adhere to bag limits while under charter.

(b) *Application for permits.* An application for a permit must be

submitted and signed by the owner or operator of the vessel. The application must be submitted to the Regional Director or his designee within 60 days prior to April 1 for fishing the Atlantic migratory group and July 1 for fishing the Gulf migratory group each year. Owners or operators of newly registered or documented vessels may submit an application at any time during a fishing year provided it is received by the Regional Director within 60 days after registration or documentation. In cases of demonstrated hardship the Regional Director may accept applications at other times. Permit applicants must provide the following information.

(7) Any other information concerning vessel, gear characteristics and fishing area requested by the Regional Director; and

(8) The migratory group of king mackerel that will be fished.

(d) *Issuance.* The Regional Director or his designee will issue a permit to the applicant only during February and March of each year to fish the Atlantic migratory group and May to June of each year to fish the Gulf migratory group. The Regional Director may issue permits to newly registered or documented vessels, or cases of demonstrated hardship at other times, as found at paragraph (b) of this section. Until the permit is received, fishermen must comply with the bag limits under § 642.28.

(f) *Duration.* A permit is valid only for the duration of the year for which it is issued (July 1–June 30 for the Gulf migratory group and April 1–March 31 for the Atlantic migratory group) unless revoked or suspended pursuant to Subpart D of 15 CFR Part 904.

(g) *Transfer.* A permit issued under this section is not transferable or assignable except on sale of the vessel to a new owner. A permit is valid only for the fishing vessel for which it is issued. New owners purchasing a permitted vessel to fish under the Gulf or Atlantic migratory groups' quotas must comply with the provisions of paragraph (b) of this section. The application must be accompanied by an executed (signed) bill of sale. New owners who have purchased a permitted vessel may fish with the preceding owner's permit until a new permit has been issued, but for a period not to exceed 60 days from date of purchase.

5. Section 642.6 is amended by revising paragraph (a) introductory text to read as follows:

§ 642.6 Vessel identification.

(a) *Official number.* Each vessel of the United States engaged in commercial fishing for king mackerel under a quota and the permit specified in § 642.4 must—

6. Section 642.7 is amended by revising existing paragraphs (a)(21), (22), and (25); changing period at end of (a)(26) to "; or", and adding a new paragraph (a)(27) to read as follows:

§ 642.7 Prohibitions.

(a) * * *

(21) Land, consume at sea, sell, or have in possession at sea or time of landing king mackerel in excess of the bag limits specified in § 642.28 except as provided for under § 642.21;

(22) Fish for king mackerel from the Gulf and Atlantic migratory groups in the FCZ as defined in § 642.29 under the quotas specified in § 642.21(a) without a permit as specified in § 642.4;

(25) Land king mackerel in other than an identifiable form as specified in § 642.28(b);

(27) Possess king mackerel harvested from the FCZ under the recreational allocation set forth at § 642.21(b) after closure has been invoked as specified in § 642.22.

7. Section 642.21 is amended by revising the section title and paragraph (a), redesignating existing paragraphs (b) through (e) as (c) through (f), and adding a new paragraph (b) to read as follows:

§ 642.21 Quotas and allocations.

(a) *Commercial quotas for king mackerel.* The initial commercial allocation for the Gulf migratory group of king mackerel is 4.552 million pounds per fishing year. This allocation is divided into quotas as follows:

(1) 2.940 million pounds for the eastern allocation zone;

(2) 1.328 million pounds for the western allocation zone; and

(3) 0.284 million pounds for purse seines (see Figure 2 and paragraph (f) of this section for description of allocation zones).

(4) The commercial allocation for the Atlantic migratory group of king mackerel is 3.59 million pounds per fishing year.

(5) In this part, a fish is counted against the commercial quota or allocation when it is first sold (Table 2).

(b) *Recreational allocations for king mackerel.* The recreational allocation for the Atlantic migratory group is 6.09 million pounds per fishing year.

8. Section 642.22 is amended by designating the existing paragraph as (a) and adding a new paragraph (b) to read as follows:

§ 642.22 Closures.

(b) The Secretary, by publication of a notice in the *Federal Register*, will close the recreational fishery for king mackerel of the Atlantic migratory group when allocation for that group under § 642.21(b) is reached or is projected to be reached.

9. Section 642.28 is revised to read as follows:

§ 642.28 Bag and possession limits.

(a) *Recreational allocation bag limits.* Persons who fish for king mackerel from

the Gulf or Atlantic migratory groups (see Figure 2) in the FCZ except those fishing under the permits and quotas specified in § 642.4, § 642.21, and § 642.24(c) are limited to the following:

(1) *Gulf migratory group.* (i) Possessing three (3) king mackerel per person per trip, excluding the captain and crew or possessing two (2) king mackerel per person per trip, including the vessel captain and crew, whichever is the greater, when fishing from a charter vessel.

(ii) Possessing two (2) king mackerel per person per trip when fishing from other vessels.

(2) *Atlantic Migratory group.* Possessing three (3) king mackerel per person per trip.

(b) All king mackerel must be landed in an identifiable form as to number and species (with the understanding that head and tail can be removed).

(c) After a closure under § 642.22 is invoked for a migratory group or allocation zone specified in § 642.21, vessels permitted under § 642.4 may not fish for Gulf migratory group king mackerel under the bag limit specified under paragraph (a) of this section nor can persons fishing under the bag limit sell their fish. Permitted charter vessels that fish the Atlantic migratory king mackerel group may fish under the bag limit specified under (a)(2) of this section provided they are under charter (more than three (3) persons aboard including captain and crew).

10. Part 642 is amended by designating Tables 1 and 2 and Figures 1 through 3 as Appendix A to the part. Table 2 is amended by revising the "King Mackerel—Atlantic" line and adding a new "King Mackerel—Atlantic Recreational" line to read as follows:

TABLE 2.—KING AND SPANISH MACKEREL QUOTAS AND TOTAL ALLOWABLE CATCH (TAC) FOR WHICH CLOSURES ARE INVOKED FOR SPECIFIC MIGRATORY GROUPS OR ALLOCATION ZONES OR GEAR TYPES¹

Migratory group(s)	Fishing year	Gear	Allocation zone	Initial year quota/ TAC (million pounds)	Prohibition on sale and/or catch invoked when—
King Mackerel:					
Atlantic Commercial	1. Apr.–31 Mar.	All types	Entire range ²	3.590	Sales from migratory group are projected to reach quota.
Atlantic Recreational	1. Apr.–31 Mar.	All types	Entire range ²	6.090	Catches from migratory group are projected to reach allocation.